

SHD Paraphrased Regulations - Refugee Programs

700 General

700-1

State regulations were issued to implement the Federal Immigration and Nationality Act, as amended by the Refugee Act of 1980 (Public Law 96-212), 45 Code of Federal Regulations Part 400, and additional instructions issued by the Federal Office of Refugee Resettlement, in order to provide financial assistance, medical assistance and social services to all refugees in the United States regardless of national origin. (§69-201.1)

700-2

Requirements of categorical relatedness applicable to the CalWORKs Program are waived for assistance under RCA and aid shall be granted without regard to the presence of children, age or number of hours worked. Factors which must be considered are: time eligibility; refugee status; income and resources; income eligibility; attendance in an institution of higher education; and registration, employment and employment-directed educational/training components. (§69-205.11, revised and renumbered from §69-206.11, effective February 1, 2002)

700-3

All current CalWORKs Program regulations relating to financial eligibility and payments apply to the RCA Program (except for Diversion Services payments) unless superseded by specific RCA regulations. (§69-201.4, as revised effective February 1, 2002)

700-3B

The Office of Refugee Resettlement (ORR) by letter dated September 29, 1998, granted California a waiver which allowed the state to use the need and payment standards for the Temporary Assistance for Needy Families (TANF) program for RCA recipients. The ORR limited the waiver to 45 Code of Federal Regulations (CFR) §§45-400.62(a) and .62(b), and did "not waive the other Aid to Families with Dependent Children (AFDC) requirements referenced in the ORR regulation."

The CDSS advised counties that RCA recipients would be governed by the same need standard (MBSAC) and payment level (MAP) as CalWORKs recipients. The CDSS further stated that the granted federal waiver was limited to the MBSAC and MAP only, and not to any other RCA requirement, including the method of grant calculation. (All-County Letter (ACL) No. 98-88, November 13, 1998) Approval to use other grant calculation measures was received effective April 21, 2000. (ACL No. 00-40, June 19, 2000) Regulations to this effect were issued effective February 1, 2002. (§69-201.4)

700-4

Refugees who qualify for assistance under the CalWORKs Program shall be aided under CalWORKs. Those who do not qualify for CalWORKs shall have their eligibility for RCA determined in accord with §69-206. The refugee has no option as to program preference. (§69-204.2, as revised and renumbered effective February 1, 2002)

701-1

Applicants for and recipients of RCA shall have the right to appeal any county action in accordance with §22-000 et seq. (§69-221, repealed effective February 1, 2002)

701-2

State regulations provide that RCA claimants are entitled to certain due process rights in

SHD Paraphrased Regulations - Refugee Programs

700 General

terms of state hearings, but not to certain other rights guaranteed to other claimants, e.g., to present documentary evidence, to be represented.

The state hearing regulatory rights are set forth below:

"All applicants for and recipients of recipients of RCA shall be provided an opportunity for a hearing to: defend by confronting any adverse witnesses; present his/her own argument and evidence orally; and to contest adverse determinations.

".21 The written notice of any hearing determination shall adequately explain the basis for the decision and the refugee's right to request any further administrative or judicial review.

".22 An RCA's benefits may not be terminated prior to completion of final administrative action, but are subject to recovery by the CWD if the action is sustained.

".23 A hearing need not be granted when:

".231 Federal law requires automatic grant adjustments for classes of recipients unless the reason for an individual appeal is an incorrect grant computation.

".232 Assistance is terminated because the eligibility time period imposed by law has been reached, unless there is a disputed issue of fact."

(69-210.2, effective February 1, 2002)

701-3

The CDSS has deleted reference to §22-000 et seq. (see §69-221, repealed effective February 1, 2002) and replaced the RCA hearing regulations with §69-210.2, as revised and renumbered effective February 1, 2002.

However, federal RCA regulations require hearing procedures to be in accord with 45 Code of Federal Regulations (CFR) §205.10(a) and with the due process standards of *Goldberg v. Kelly* (1970) 397 U.S. 254. *Goldberg* and the CFR require additional notice requirements (e.g., specific regulations, right to aid pending and right to recover aid pending) as well as additional hearing rights (e.g., to examine the case file, to bring witnesses, to submit documentary evidence, to be represented by another person, to have an impartial hearing official). These due process rights must be part of the hearing procedures or the hearing will be inconsistent with federal RCA regulations. (§§45-400.23(a) and .54(b))